

### **REMARKS**

The applicant respectfully requests reconsideration in view of the amendments and the following remarks. The applicant has amended claim 7 as suggested by the Examiner.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatenable 5,840,217 (Lupo et al.) with evidence supplied by 4,898,983 (Towle). Claims 7, 13-14, 16-17 are rejected on the ground of nonstatutory obviousness-type double patenting over claim 19 of U.S. Patent No, 7,345,301. The applicant respectfully traverses these rejections.

### **103 Rejection**

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatenable 5,840,217 (Lupo et al.) with evidence supplied by 4,898,983 (Towle). The applicant has amended claim 7 as suggested by the Examiner. For the above reasons, this rejection should be withdrawn.

### **Double Patenting Rejection**

Claims 7, 13-14, 16-17 are rejected on the ground of nonstatutory obviousness-type double patenting over claim 19 of U.S. Patent No, 7,345,301. In response, Applicants have filed herewith a Terminal Disclaimer. Accordingly, Applicants respectfully request that the double-patenting rejection be withdrawn.

The filing of a Terminal Disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. The "filing of a Terminal Disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." Quad Environmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870, 20 U.S.P.Q.2d 1392 (Fed. Cir. 1991). Accordingly, Applicants filing of the attached disclaimer is provided for facilitating a timely resolution to prosecution only, and should not be interpreted as an admission as to the merits of the obviated rejection.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 14113-00105-US from which the undersigned is authorized to draw.

Dated: December 19, 2008

Respectfully submitted,

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